

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

5171 CAMPBELLS LAND CO., INC.,

Debtor.

5171 CAMPBELLS LAND CO., INC.,

Movant,

v.

GERALD R. FRY CO., INC.; FIELD CLUB
COMMONS ASSOCIATES, LLC;
ASCENTIUM CAPITAL, LLC; IEMFS, LTD.
d/b/a GSG FINANCIAL; HITACHI CAPITAL
AMERICA CORP.; TRI STATE
EQUIPMENT CO., INC.; WESBANCO
BANK, INC.; STORE CAPITAL
ACQUISITIONS, LLC; STORE MASTER
FUNDING XIII, LLC; US FOODS, INC.;
VISION FINANCIAL GROUP, INC.;
PENNSYLVANIA DEPARTMENT OF
REVENUE; THE NEW YORK
DEPARTMENT OF TAXATION; THE OHIO
DEPARTMENT OF TAXATION; AND THE
INTERNAL REVENUE SERVICE,

Respondents.

Bankr. Case No. 19-22715-CMB

Chapter 11

Related to Doc. No. 153

Response Deadline: August 28, 2019

Hearing Date: August 29, 2019

Hearing Time: 11:00am

**LIMITED RESPONSE OF WILLIAM T. SPAEDER CO., INC. TO
EMERGENCY MOTION FOR SALE OF: (1) PERSONALTY; AND
(2) DEBTOR'S INTERESTS IN LAND LEASES WITH GERALD R. FRY CO., INC.
AND FIELD CLUB COMMONS ASSOCIATES, LLC FREE AND CLEAR OF
ALL LIENS, CLAIMS AND ENCUMBRANCES**

William T. Spaeder Co., Inc. ("Spaeder"), by and through its undersigned attorneys, files this Limited Response (the "Response") to the Emergency Motion for Sale of: (1) Personality, and (2) Debtor's Interests in Land Leases with Gerald R. Fry Co., Inc. and Field Club Commons

Associates, LLC Free and Clear of All Liens, Claims, and Encumbrances (the “Motion”) filed by 5171 Campbells Land Co., Inc. (the “Debtor”) and in support thereof states as follows:

1. On July 8, 2019 (the “Petition Date”), the Debtor filed its voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, the “Bankruptcy Code”) in the United States Bankruptcy Court for the Western District of Pennsylvania (the “Court”) at Bankruptcy Case No. 19-22715-CMB.

2. On August 22, 2019, the Debtor filed its Motion to sell all tangible personal property, machinery, equipment, tools, supplies, inventory, furniture and fixtures associated with its operations of its Greenville, PA and New Castle, PA restaurants (the “Personalty”) along with its buildings located at 19 Greenville Plaza, Greenville, PA 16125 and 3334 Wilmington Road, New Castle, PA 16105 which the Debtor alleges to own subject to land leases with Gerald R. Fry Co., Inc. and Field Club Commons Associates, LLC (the “Land Leases”).

3. Prior to the Petition Date, Spaeder completed repairs on various of the Debtors’ locations and filed nine (9) Mechanics’ Liens Claims in Pennsylvania, including one in the Court of Common Pleas of Mercer County filed on May 6, 2019 (the “Mechanics’ Lien”), against the Debtor’s building located at 19 Greenville Plaza, Greenville, Pennsylvania 16125 (the “Greenville Restaurant”). A true and correct copy of the Mechanics’ Lien is attached hereto and incorporated herein as **Exhibit A**.

4. Spaeder does not object to the Motion and the sale of the Greenville Restaurant *per se* provided that Spaeder is paid at closing from the proceeds. Any sale order granting the Motion should be modified to protect the rights of Spaeder by providing that the Mechanics’ Lien shall be paid in full at closing.

5. As of August 27, 2019, the total amount due and owing under the Mechanics' Lien is \$729.65, including \$711.15 for labor and materials, plus \$18.50 for costs associated with filing the Mechanics' Lien.

WHEREFORE, William T. Spaeder Co., Inc. respectfully requests that this Honorable Court modify the Sale Order to reflect that \$729.65 shall be paid to Spaeder in full at closing and grant Spaeder such other and further relief as is just and proper.

Dated: August 28, 2019

TUCKER ARENSBERG, P.C.

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Attorneys for William T. Spaeder Co., Inc.

CERTIFICATE OF SERVICE

I certify under penalty of perjury that I served the within Limited Objection on all counsel of record via the Court's CM/ECF system, as listed below, on August 28, 2019.

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By: /s/ Allison L. Carr